U.S. Department of Labor

Office of Labor-Management Standards
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November 23, 2021

Ms. Shannon Brinson, Treasurer
Fire Fighters Local 85
P.O. Box 667
Fallbrook, CA 92088

Case Number: 520-6022537[redacted]
LM Number: 501-662

Dear Ms. Brinson:

This office has recently completed an audit of Fire Fighters Local 85 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with President Luis Gonzales, Secretary David Lewis, and you on October 5, 2021, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

Record Keeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 85's 2020 records revealed the following recordkeeping violations:

1. Receipt Records

   Local 85 did not maintain adequate records for travel refunds totaling at least $1,278.16, which it received from the cancelation of the international convention due to COVID-19. In addition, the union did not maintain adequate records of income received from merchandise sales totaling at least $700.00. Union receipts records must include an

adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

2. General Reimbursed and Other Expenses

   Local 85 did not retain adequate documentation for reimbursed expenses and other expenses totaling at least $3,755.00. These included payments for members' meals, hotels, accountant and arbitration fees, and retirement gifts.

   As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

3. Voided Checks Not Retained

   Local 85 failed to retain two voided checks during the audit year. As a general rule, all types of records created or used in the normal course of doing union business must be maintained by the union for five years.

   Based on your assurance that Local 85 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

<u>Reporting Violations</u>

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report (Form LM-3) filed by Local 85 for the fiscal year ended September 30, 2020, was deficient in the following areas:

1. Reporting Union Officers

   Local 85 did not list the names of some officers during the reporting period in Item 24 (All Officers and All Disbursements to Officers). For example, the union did not list its appointed Vice President, eight Board of Directors, and three Trustees. The union must list in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

2. Other Receipts

   Local 85 did not report travel refunds totaling at least $1,278.16 it received in Item 43 (Other Receipts).

3. Reporting Expenses

Local 85 did not correctly report certain expenses as provided for in the Form LM-3 instructions. For example, the union reported $61,552.00 in benefit payments as professional fees (Item 49); and $1,000.00 in retirement gifts and $735.00 in accountant and arbitration payments as office and administrative expenses (Item 48). These expenses should be reported, respectively, in Item 50 (Benefits), Item 51 (Contributions, Grants, and Gifts), and Item 49 (Professional Fees).

4. Cash Reconciliation

   It appears that the cash figures reported in Item 25 (Cash) are not the figures according to Local 85's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

5. Failure to File Bylaws

   The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 85 amended its constitution and bylaws in 2017 but did not file a copy with its LM report for that year. Local 85 has now filed a copy of its constitution and bylaws.

   Local 85 must file an amended Form LM-3 for the fiscal year ended September 30, 2020, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-3 must be filed no later than October 20, 2021. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issue

Expense Policy

The audit revealed that Local 85 does not have a clear policy regarding the types of expenses that may be paid with the union debit card and who is authorized to use the union debit card. OLMS recommends that unions adopt written guidelines concerning such matters.

I want to extend my personal appreciation to Fire Fighters Local 85 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[redacted]
Investigator

cc: Mr. Luis Gonzales, FF Local 85 President
Mr. David Lewis, FF Local 85 Secretary
[redacted]